

Attorney Docket No. P70S18US0
Application No. 10/531,261

Remarks/Arguments:

The title is changed hereby to "A Staircase Lift and a Guide Rail for Such a Lift," to better identify the presently claimed invention.

The specification is amended, hereby to be commensurate with changes made to the drawings in the amended drawing figures submitted with the Amendment filed, separately, February 5, 2007.

Claims 25-53, newly presented, are pending.

Claim 16 is cancelled pursuant to restriction.

Claims 1-24 are canceled, without prejudice or disclaimer.

New claims 25-39 contain the subject matter of original claims 1-15 and new claims 40-53 contain the subject matter of original claims 17-24, rewritten to more clearly define the instant invention and, otherwise, as explained below.

With respect to the requirement for restriction, under 35 USC 121, applicant elects invention I, claims 1-15, with traverse. Traverse is maintained with respect to restriction between invention I and invention III, claims 17-24. Present claims 25-53 contain the subject matter of invention I and invention III. As indicated above, original claim 16—invention II—is canceled pursuant to the restriction requirement.

The Office Action includes an objection to the specification and a related objection to the drawings. In compliance with the foregoing objections to the specification and drawings, replacement sheets of (corrected) drawings were submitted with the Amendment filed, separately, February 5, 2007.

Attorney Docket No. P70518US0
Application No. 10/531,261

Claim 20 was rejected under 35 USC 112, first paragraph, for allegedly failing to comply with the written description requirement. Reconsideration is requested.

According to the statement of rejection (Office Action, page 4) "Claim 20 is not understood. Where are these different distances discussed in the specification?"

Attention is directed to the disclosure at specification page 6, lines 15 to 26, and page 13, line 27 to page 14, line 14, and in application figure 14. From the foregoing disclosure it is readily apparent that the guide rail (2) is provided with an upper guide member support surface (22) facing towards the side mounting means (28, 35) and a second lower guide member support surface (24) facing away from the side mounting means (28, 35), wherein the lateral distance between the side mounting means (28, 35) and the carrier member support surface (25) is smaller than the distance between the side mounting means (28, 35) and the lower guide member support surface (24), which is smaller than the distance between the side mounting means (28, 35) and the upper guide member support surface (22). Thereby, the carrier frame can be suspended from the guide rail in a predetermined manner, and due to the disclosed relationship among the distances of the surfaces involved, the carrier frame is retained in the guide rail and is thus, prevented from falling out because of its own weight.

Accordingly, application figure 14 and the corresponding specification text show that the written description requirement of §112, ¶1, is satisfied with respect to the subject matter of original claim 20 (present claim 57). Withdrawal of the rejection under §112, ¶1, appears to be in order.

Attorney Docket No. P70518US0
Application No. 10/531,261

Claims 1-15 were rejected under 35 USC 112, second paragraph, as allegedly being indefinite. Claim 17-24 were rejected under 35 USC 112, second and fourth paragraphs, for allegedly being indefinite and for allegedly failing to further limit each of the claims from which each of the rejected claims depends. Reconsideration of the rejections against claims 1-15 and 17-24 is requested, in view of the new (replacement) claims presented, hereby, as explained in the following remarks.

Concerning the rejection of claims 1-15, present claims 25-39 evidence various linguistic amendments in order to elucidate the invention. Basis for the amendments is found in the specification, throughout the detailed description and the drawings.

In present claim 27 (replacing claim 3) the control levers are pivotally mounted to the carrier frame with the newly added feature at an equal distance. Present claim 27 is not redundant as this feature is not recited in present claim 25 (on which claim 27 is dependent).

Claim 1 recites (emphasis added) "vertically disposed pinion drive wheel engaging a rack, which is provided on the lower side of the guide rail." Accordingly, claims 4 and 9 do have the requisite antecedent basis (which is retained in the present claims), contrary to the statement of the rejection.

Concerning the §112, ¶s2 and 4, rejection of claims 17-24, the issues raised are resolved by the instant amendments to the claims and the explanation as follows.

Concerning the understanding of claim 20, reference is made to the above remarks in relation to the §112, ¶1, rejection.

Attorney Docket No. P70518US0
Application No. 10/531,261

Rejected claim 22 recites that the contact members are arranged for a lift control panel, as well as the power supply recited in claim 21. Therefore, claim 22 further limits claim 21 (as retained in present claims 45 and 44), contrary to the statement of the rejection.

The rejection of claim 16 under 35 USC 112, second and fourth paragraphs, is rendered moot by cancellation of the claim, hereby.

Claims 1, 6, 8, and 10-12 were rejected under 35 USC 102(b) as being allegedly anticipated by US 4627517 (Bor). Claims 17-20 were rejected under 35 USC 102(b) as being allegedly anticipated by US 6089342 (Bischof). Claims 1-4, 6, 8, 10, and 13-15 were rejected under 35 USC 103 as being allegedly unpatentable over US 5967265 (Bruno) in view of US 6155382 (Duijnstee). Claims 5 and 7 were rejected under 35 USC 103 as being allegedly unpatentable over Bruno in view of Duijnstee and US 4754849 (Ando). Claim 9 was rejected under 35 USC 103(a) as being allegedly unpatentable over Bruno in view of Duijnstee and EP 1236671 (Carlsem). Claims 14 and 15 were rejected under 35 USC 103(a) as being allegedly unpatentable over Bruno in view of Duijnstee and US 4671183 (Fujita). Claims 21 and 22 were rejected under 35 USC 103 as being allegedly unpatentable over Bischof in view of US 6233878 (US '878). Claim 23 and 24 were rejected under 35 USC 103(a) as being allegedly unpatentable over Bischof in view of US 6434905 (Sprague). Reconsideration of the aforesaid rejections under §102(b) and §103(a) is requested.

All of the §102(b) and §103(a) rejections rely on (1) Bor, (2) Bischof, or (3) Bruno. Since each of Bor and Bischof is fatally defective as an anticipatory reference—under §102(b)—and since each of Bor, Bischof, and Bruno is fatally defective with respect to the rejections under

Attorney Docket No. P70518USO
Application No. 10/531,261

§103(a)—which fatal defects are not supplied by the secondary references relied on—as explained below, none of the rejections under §102(b) and §103(a) can be maintained.

Bor does not disclose or suggest the "rack and pinion [toothed wheel] drive" of the "drive means" provided on the "moveable carrier frame," as recited in the rejected (and present) claims. In Bor the drive means are stationary and the moveable carrier frame is dragged along an endless tubular guide rack, providing an endless chain constituted by a series of transmission elements. Contrary to the stairlift in Bor, the presently claimed invention includes a staircase lift providing the drive on the carrier frame. Thereby, no for moving parts are needed in the guide rail. Moreover, the presently claimed invention requires no drive unit for driving the transmission elements in the tubular track. Accordingly, there being a single claim limitation absent from Bor, it "negates anticipation" based on the reference, *Kolster Speedsteel A B v. Crucible Inc.*, 230 USPQ 81, 84 (Fed. Cir. 1986), and the rejection under §102(b) based on Bor cannot be maintained. Withdrawal of the rejection appears to be in order.

As for the §103(a) rejections relying on Bor there is no motivation or incentive—in any of the cited references—to combine the technical teachings from Bor with any of the secondary references. Moreover, neither Bor nor any of the cited secondary references—alone or combined—supports the pivotally arranged first and second guiding means, each including a movement control lever with a first end where at least one set of guiding members are mounted, a second end at which point the first and second movement control levers are joined to each other by

Attorney Docket No. P70518US0
Application No. 10/531,261

a universal joint, the universal joint being substantially in a traction plane which is perpendicular to the pinion, as required in the present claims.

Since "the cited references do not support each limitation of [the] claim," applying the §103(a) rejections citing Bischof against any of the present claims would be "inadequate on its face." *In re Thrift*, 63 USPQ2d 2992m 2998 (Fed. Cir. 2002). Withdrawal of the rejections appears to be in order.

Bischof fails to disclose or suggest the limitation on the present claims to a pivotally arranged first and second guiding means, each including a movement control lever with a first end where at least one set of guiding members are mounted, a second end at which point the first and second movement control levers are joined to each other by a universal joint, the universal joint being substantially in a traction plane which is perpendicular to the pinion. Consequently, there being a single claim limitation absent from Bischof, this "negates anticipation" of the present claims. *Kolster Speedsteel A B*, 230 USPQ at 84. Withdrawal of the rejection appears to be in order.

As for the §103(a) rejections citing Bischof, neither Bischof nor any of the cited secondary references—taken alone or together—supports the limitation on the present claims to a pivotally arranged first and second guiding means, each including a movement control lever with a first end where at least one set of guiding members are mounted, a second end at which point the first and second movement control levers are joined to each other by a universal joint, the universal joint being substantially in a traction plane which is perpendicular to the pinion. Since "the cited references do not support each limitation of [the] claim," applying the §103(a) rejections citing

Attorney Docket No. P70518US0
Application No. 10/531,261

Bischof against any of the present claims would be "inadequate on its face." *Thrift*, 63 USPQ2d at 2008. Withdrawal of the rejections appears to be in order.

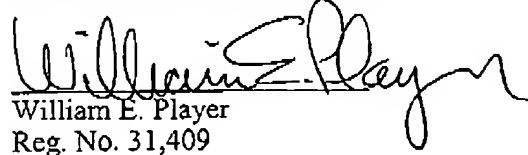
As for the §103(a) rejections citing Bruno, neither Bruno nor any of the cited secondary references—taken alone or together—supports the limitation on the present claims to a pivotally arranged first and second guiding means, each including a movement control lever with a first end where at least one set of guiding members are mounted, a second end at which point the first and second movement control levers are joined to each other by a universal joint, the universal joint being substantially in a traction plane which is perpendicular to the pinion. Since "the cited references do not support each limitation of [the] claim," applying the §103(a) rejections citing Bruno against any of the present claims would be "inadequate on its face." *Thrift*, 63 USPQ2d at 2008. Withdrawal of the rejections appears to be in order.

Favorable action is requested.

Respectfully submitted,

JACOBSON HOLMAN PLLC

By


William E. Player
Reg. No. 31,409

400 Seventh Street, NW
The Jenifer Building
Washington, D.C. 20004
Tel. (202) 638-6666
Fax (202) 393-5350
Date: February 5, 2007
WEP/jhr

R:\Home\WPLAYER\wep&secretary\2007\February\P70518US0 amd.wpd